

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LORI KEMPLY, et al.,
Plaintiffs,

v.

CASHCALL, INC.,
Defendant.

Case No. [08-cv-03174-MEJ](#)

**ORDER RE: RULE 59(A) MOTION
FRAMEWORK**

In light of the June 2, 2016 status conference in this matter, the Court **STAYS** any pending deadlines and **ORDERS** the parties to meet and confer (in person, telephonically, or by web-based conference) as to the following framework for addressing Defendant CashCall Inc.'s anticipated Rule 59(a) motion following the Supreme Court's recent decision in *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540 (2016), *as revised* (May 24, 2016).

1. CashCall may file its motion pursuant to Federal Rule of Civil Procedure 59(a), but in doing so, the Court requires CashCall (and later Plaintiffs) to address the following:
 - a. Whether at the time of the trial and the issuance of the Findings of Fact and Conclusions of Law, the injury in fact requirement in this circuit was different than it is now under *Spokeo*, and whether given *Spokeo* and the potential change in the law concerning Article III standing, there is any basis for Plaintiffs to now submit evidence to prove Article III standing and for CashCall to prepare a defense on the same grounds.
 - b. Whether the Court must also consider other relevant changes or clarifications in the law that may affect Plaintiffs' conditioning claims prior to the issuance of judgment. *See, e.g., Beaver v. Tarsadia Hotels*, 816 F.3d

1170, 1178 (9th Cir. 2016).

2. Following CashCall's motion, Plaintiffs may file an opposition or a cross motion for a new trial under Rule 59.

3. CashCall may submit a reply, as may Plaintiffs if they affirmatively move under Rule 59. No sur-replies will be accepted, however.

4. The parties will have two weeks between each submission to file their responses.

The parties may file a stipulation agreeing to this framework and informing the court of whether Plaintiffs intend to (1) oppose CashCall's motion, (2) file a cross-motion, or (3) file another relevant motion that addresses the Court's concerns above. If the parties cannot so stipulate, they may submit proposals for modifying the framework above or otherwise objecting to it. Their responses are due June 17, 2016.

No motions may be filed until the Court has ruled on a final framework and schedule for these issues.

IT IS SO ORDERED.

Dated: June 3, 2016



MARIA-ELENA JAMES
United States Magistrate Judge